

S/N 10/748,712  
Attorney Ref. No. 659-1149  
Client Ref. No. 18,666

**REMARKS:**

**Remarks About Claims 6-8:**

The Examiner has rejected claims 6-8 under 35 USC 103 as being obvious over U.S. Patent No. 6,132,410 to Van Gompel (Van Gompel I) in view of U.S. Patent No. 4,437,860 to Sigl, PCT Publication No. WO 99/32062 to Kerr and U.S. Publication No. US 2004/0122401 A1 to Van Gompel (Van Gompel II). Applicants note that Van Gompel II is a reference applied under 35 USC 102(e). Pursuant to 35 USC 103(c), however, subject matter which qualifies as prior art under 35 USC 102(e) "shall not preclude patentability under [35 USC 103] where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." Accordingly, pursuant to the following statement, Van Gompel II should not be applied as prior art and the rejection should be withdrawn (MPEP 706.02(1)(2)). Since Applicants have rewritten claims 6-8 in independent form, those claims are now in condition for allowance.

**Statement About Common Ownership:**

Applicants' undersigned attorney hereby states that the present application (S/N 10/748,712) and U.S. Pub. No. US 2004/0122401 A1, and the application (S/N 10/325,481) underlying the '401 Publication, were, at the time the invention of the present application (S/N 10/748,712) was made, owned by or subject to an obligation of Assignment to, Kimberly-Clark Worldwide, Inc.

**Remarks About Claims 1-5, 9-19 and 29:**

Applicants have amended independent claim 29 to recite that "said first adhesive region is positioned between said second adhesive region and said terminal

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waist edge of said corresponding one of said front and rear body panels and wherein said second adhesive region is positioned between said first adhesive region and said terminal crotch edge of said corresponding one of said front and rear body panels.” Applicants have further deleted the recitation of “at least” preceding “one of said first and second end portions.”

In this way, Applicants have clarified that both the first *and* second adhesive regions are applied between *one of the end portions* of the absorbent insert and one of the front and rear body panels, rather than a first adhesive region being applied between one end portion of the absorbent insert and a front body panel and a second adhesive region being applied between an opposite end portion and the rear body panel, which is the interpretation applied by the Examiner (see Office Action at 3, citing Col. 13, lines 55-65 of Van Gompel I). Of course, claim 29 would also cover and read on an absorbent garment having both end portions secured with first and second adhesive regions.

As just noted, Van Gompel I discloses opposite ends 82, 83 of the absorbent composite 32 being secured to body panels 52, 53 (Van Gompel I at Col. 13, lines 55-65; FIG. 1). Indeed, although not cited by the Examiner, Van Gompel I discloses securing the absorbent composite with side securements 40 and end attachments 44 (Van Gompel I at Col. 17, lines 25-67; FIG. 1). Nowhere, however, does Van Gompel I disclose or suggest that the side securements 40 and the end attachments 44 have “first and second corresponding adhesive properties [having] different values,” as recited in claim 29. Accordingly, Van Gompel does not disclose or suggest the recitations referred to by the Examiner.

Applicants further respectfully submit that Sigl does not supply the deficiencies of Van Gompel I. Moreover, there is no suggestion to combine Van Gompel I and Sigl in any event.

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In particular, Sigl discloses varying concentrations of adhesive *applied to* elastic strips 30, which are then bonded to the backing sheet 22 (Sigl at Col. 3, line 67 to Col. 4, line 66). As such, the adhesive bars 32 a,b do *not* connect the absorbent batt 24 to the body panels (see claim 29), but rather only secure the elastic strips 30 to the backing sheet 22. Indeed, Sigl discloses that “one surface of absorbent batt 24 is secured to backing sheet 22 and/or to facing sheet 21 in at least the crotch section 28” (Sigl at Col. 3, lines 6-8). Accordingly, Sigl does not suggest using different adhesive properties to secure an absorbent insert to a body panel, as recited in claim 29, but rather discloses using different concentrations of adhesive to secure an elastic to a back sheet. Indeed, the entire premise of Sigl is to vary the adhesive concentration so as to reduce any gathering in the waistband portions 25, 26 of the diaper (*see e.g.*, Sigl at Col. 4, lines 10-23 and Abstract (“A disposable diaper with uniformly stretched elastic bands adhesively bonded along the entire length of both edges of the diaper with heavier concentrations of adhesive in the waistband portions than in the crotch portion to reduce gathering and creep of the elastic in the waistband portions.”)).

In contrast, each elastic 34 of Van Gompel I is secured along the sides of the absorbent composite, or the elastic has an end that “*diverges* away from the absorbent composite 32” along end sections 35 (Van Gompel I at Col. 19, lines 39-62; FIG. 1). In either case, varying the concentration of the adhesive holding the elastics of Van Gompel I would not result in the end portions of the absorbent composite 32, secured by side securements 40 and end attachments 44, being connected to the body panels with different adhesive properties.

Moreover, since the elastics 34 of Van Gompel do not extend along the entire length of the garment, as do the elastics 30 of Sigl, there also is no suggestion to combine Sigl with Van Gompel, since there is no need to reduce the gathering of the elastics in the waist regions of Van Gompel (see regions 25 and 26 of Sigl). Simply

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put, there is no suggestion to combine Sigl and Van Gompel I. Indeed, it is only with improper hindsight analysis that one would combine the teachings of Sigl (varying concentrations of adhesive applied between the elastics and a backsheet to reduce the gathering of elastics) with Van Gompel in order to secure the *end portions* of the absorbent composite 32 of Van Gompel, which have no longitudinal elastics, to a body panel.

In summary, Van Gompel and Sigl do not disclose or suggest all of the recitations of claim 29, even if combined, and there is no suggestion to combine those references in any event. Accordingly, it is not possible to make out a prima facie case of obviousness for at least these reasons (MPEP 2143).

**Claims 1, 2, 11 and 12:**

While claims 1-19 all depend from claim 29, and are allowable for at least the reasons set forth above, Applicants take this opportunity to comment on a few additional dependent claims. Such comment should not be understood to mean that other claims not commented on herein, or other aspects of the claims that are addressed, do not also distinguish over the cited references for various reasons not set forth herein. Rather, Applicants have simply highlighted a few additional differences for the Examiner's consideration in an effort to expedite the prosecution of this application.

As noted above, claim 29 now recites that "said first adhesive region is positioned between said second adhesive region and said terminal waist edge of said corresponding one of said front and rear body panels and wherein said second adhesive region is positioned between said first adhesive region and said terminal crotch edge of said corresponding one of said front and rear body panels." Claim 1 further recites that "said first and second corresponding adhesive properties of said first and second adhesive regions comprise first and second adhesive basis weights

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respectively, wherein said second adhesive basis weight is *greater than* said first adhesive basis weight,” and claim 11 recites that the “first adhesive region has a first peel strength and . . . said first and second adhesive regions in combination have a second peel strength, wherein said second peel strength is *greater than* said first peel strength.” Finally, claims 2 and 12 further recite differential adhesive regions on both of the end portions of the absorbent insert. In this way, claims 1, 2, 11 and 12 recite respectively a greater basis weight and a greater peel strength *closer* to the terminal crotch edge of the body panel, with a lesser basis weight and a lesser peel strength *closer* to the terminal waist end of the body panel.

In contrast, Sigl discloses just the opposite! In particular, Sigl discloses that “the ends 31 of the elastic means 30 positioned in the waistband sections 25, 26 are provided with heavier concentrations of adhesive” (Sigl at Col. 3, lines 21-25; Col. 4, lines 10-24). Indeed, as explained above, the heavier concentrations are used to “substantially stabilize the stretched elastic and to greatly reduce its retractive force in the waistband portions 25, 26 of the diaper” (Sigl at Col. 4, lines 17-20). As such, Sigl teaches away from the combination as asserted by the Examiner. Applicants note that the Examiner has cited Kerr merely for the proposition of varying basis weights of the “adhesives of Van Gompel and Sigl” (Office Action at 4). Accordingly, Kerr does not supply the noted deficiencies of Van Gompel and Sigl.

For at least these additional reasons, there is no suggestion to combine Van Gompel, Sigl and Kerr, and even if combined, those references teach away from the inventions of claims 1, 2, 11 and 12.

#### **Comments Concerning Previously Filed Declaration Under 37 CFR 1.131:**

Applicants previously submitted a Declaration under 37 CFR 1.131 to establish invention of the subject matter of the present application prior to the May 8,

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2003 effective date of a publication to Balogh. At the time, Applicants noted that the Declaration was signed by all of the inventors except Mr. Paul Hasler, who was, at that time, either unavailable or refused to sign the Declaration. Subsequent to the filing of the Declaration, Applicants received a copy of the Declaration as executed by Mr. Hasler. Applicants are now submitting the executed Declaration of Mr. Hasler.

**Conclusion:**

Applicants previously paid for twenty-eight (28) claims, including four (4) independent claims. After entry of this Amendment, this application has twenty (20) claims, including four (4) independent claims. Accordingly, no additional claims fees are believed to be due.

For all of the reasons set forth above, Applicants submit that the outstanding rejections have been overcome and earnestly solicit notice to that effect. Any questions concerning this Response should be directed to the undersigned attorney at (312) 321-4713.

Respectfully submitted,



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